

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TELCO GROUP, Inc., individually and
on behalf of all persons similarly
situated,

Plaintiff,

v.

AMERITRADE, Inc., ADVANCED
CLEARING, Inc., and AMERITRADE
HOLDING, Corporation,

Defendants.

8:05CV387

MEMORANDUM AND ORDER

This matter is before the court on plaintiff's objection, Filing No. 85, to the report and recommendation of the magistrate, Filing No. 75, denying plaintiff's motion to certify the class, Filing No. 51. The court made a de novo review of the record and of all objections made by the plaintiff. Fed. R. Civ. P. 72(b). The court may accept or reject or modify the decision of the magistrate. *Id.*

The magistrate reviewed the motion, evidence and briefs, including expert evidence, in support and in opposition and concluded that the motions to certify the classes should not be granted. Plaintiff objects to the findings of the magistrate, believing it is entitled to class certification pursuant to the requirements of Fed. R. Civ. P. 23(a) and (b). The court has carefully reviewed the objections filed by the plaintiff, the magistrate's report and recommendation, and the evidence and briefs submitted in support of and in opposition to the requests for class certification as well as the relevant law. The court finds that the magistrate has done an excellent job analyzing the facts and applying the appropriate law

on this issue. Consequently, the report and recommendation of the magistrate will be adopted, and the court will not certify a class in this case.

THEREFORE, IT IS ORDERED:

1. The report and recommendation of the magistrate, Filing No. 75, is adopted in its entirety;

2. The motion to certify the class, Filing No. 51, is denied; and

3. The objections of the plaintiff, Filing No. 85, are overruled.

DATED this 23rd day of January, 2007.

BY THE COURT:

s/ Joseph F. Bataillon
Chief Judge